

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC.,

Petitioner,

v.

NETSOCKET, INC.,

Patent Owner.

Patent No. 7,190,698

Filing Date: December 20, 2001

Issue Date: March 13, 2007

Inventors: Emil Svanberg, Joachim Johansson, Anders Torger,
Joakim Norrgard, and Anders Larsson

Title: NETWORK OPTIMISATION METHOD

**PATENT OWNER'S SUR-REPLY TO
PETITIONER'S REPLY TO PRELIMINARY RESPONSE**

Case No. IPR2023-00607

EXHIBIT LIST

Exhibit No.	Description of Document
2001	Amended Docket Control Order, Dkt. 47, in <i>NetSocket Inc. v. Cisco Systems, Inc.</i> , Case No. 2:22-cv-00172-JRG, dated February 2, 2023
2002	Cisco Systems, Inc.'s P.R. 3-3 Invalidity Contentions and Ineligibility Contentions in v <i>NetSocket Inc. v. Cisco Systems, Inc.</i> , Case No. 2:22-cv-00172-JRG, dated March 22, 2023

The Board “takes a holistic view of whether efficiency and integrity of the system are best served by denying or instituting review.” *Apple v. Fintiv*, IPR2020-00019, Paper 11, at 6 (P.T.A.B. Mar. 20, 2020). Even with a postponed trial date to October 2024, all other *Fintiv* factors weigh in favor of denying institution.

Fintiv Factor 1: The District Court would not grant a motion to stay as 5 out of the 7 patents asserted in the District Court Litigation are not subject to any PTAB proceedings. *Peloton Interactive, Inc. v. Flywheel Sports, Inc.*, No. 2:18-cv-00390-RWS-RSP, Dkt. 104 at 3 (E.D. Tex. Aug. 14, 2019).

Fintiv Factor 3: Despite Petitioner downplaying the significant investments made in the District Court Litigation, the District Court has already entered a Docket Control Order (Dkts. 32, 47, 75), Discovery Order (Dkt. 33), and Protective Order (Dkt. 36). Discovery is well under way, and the parties have exchanged initial disclosures, infringement contentions, and invalidity contentions.

Fintiv Factors 4 and 5: Petitioner does not dispute the overlap between the District Court Litigation and this Petition significantly overlap. Notably, Petitioner has not made a *Sotera*-type stipulation.

Finally, because the merits arguments in the Petition are weak, the Petition should be denied.

Respectfully submitted,

Dated: August 23, 2023

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CERTIFICATE OF SERVICE

A copy of PATENT OWNER'S SUR-REPLY TO PETITIONER'S REPLY
TO PRELIMINARY RESPONSE has been served on Petitioner's counsel of record
as follows:

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August 23, 2023

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